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ABSTRACT

The enforcement of federal and state bilingual education legislation and the implementation of bilingual education programs in Wisconsin were reviewed to determine whether any children were being denied program benefits. The review focused on types of programs, number of teachers, the existence of parent advisory councils in school districts, involvement of the Office of Civil Rights, and district corrective actions in cases of noncompliance. State and federal bilingual education legislation was compared in regard to source of authority, definitions, strength of mandate, time for compliance, number of eligible pupils required, parental consent and involvement, special education services, bilingual staff and training, and program entitlement and evaluation. Compliance reviews in Milwaukee, Kenosha, and Racine were analyzed and local fact-finding meetings were conducted. Based on the results, it was recommended that the state amend its laws in accordance with federal requirements for parental consent, provide transportation funds, and hire on-site review personnel to monitor program implementation. (RW)

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Falling Through the Cracks

An Assessment of Bilingual Education in Wisconsin

--A Monograph prepared by the Wisconsin Advisory Committee to the U.S. Commission on Civil Rights

July 1982

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LETTER OF TRANSMITTAL

Wisconsin Advisory Committee to the
U.S. Commission on Civil Rights
July 1982

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Dear Commissioners:

The Wisconsin Advisory Committee to the U.S. Commission on Civil Rights submits this monograph, FALLING THROUGH THE CRACKS: AN ASSESSMENT OF BILINGUAL EDUCATION IN WISCONSIN, as part of its responsibility to advise the Commission about civil rights problems within the State.

Initially, it was brought to the attention of the Committee that Wisconsin bilingual legislation was inconsistent with Federal requirements. As language minority students have been falling through the "cracks" (inconsistencies between the law), they may have been denied the benefits of such programs. Also a number of parent groups expressed concerns and complained to the Committee about existing programs, particularly, the ones in Milwaukee, Racine and Kenosha.

The Committee compared state bilingual law with Federal requirements to determine if the inconsistencies, in fact, existed. We analyzed compliance reviews on Milwaukee, Racine, Sheboygan and Kenosha to examine the enforcement efforts of the Department of Education, Office for Civil Rights (OCR). We also met with officials of the Wisconsin Department of Public Instruction to determine the role of the state regarding bilingual programs. Finally, the Committee held two fact-finding meetings, one in Milwaukee and the other in Racine, where state and local officials, administrators, teachers, parents and community leaders were invited to participate.

Based on the results of the data analysis and the fact-finding meetings, the Committee recommended that the Wisconsin State Legislature amend their state bilingual law in accordance with Federal requirements to assure that parents will have the right to withdraw their children from bilingual programs but need not give prior consent for the district to place the children in programs. We recommended that the state

provide funds for transportation expenses for those districts reassigning students for bilingual education purposes even when the students are transported less than one mile. The Committee also recommends that the State Department of Public Instruction utilize funds for bilingual programs to hire sufficient staff that will enable the department to conduct on-site reviews and to monitor implementation of bilingual programs.

Although the Committee requests no specific Commission action, the publication is transmitted in the interest of advising you of the civil rights developments that affect limited-English students in Wisconsin. We hope you concur with this report and support the Committee in our follow-up efforts.

Respectfully,

Herbert Hill, Chairperson
Wisconsin Advisory Committee

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Chapter 1

INTRODUCTION

> "...official acceptance or rejection of bilingualism in American schools is dependent upon whether the group involved is considered politically and sociably acceptable. The decision to impose English as the exclusive language of instruction in the schools has reflected the popular attitudes toward particular ethnic groups and the degree of hostility evidenced toward that group's natural development."[1]

The belief that educating a Mexican American child was a charity and not a civil duty is part of the not too distant history of the United States.[2] In the 1940's some New York City teachers were amazed at the rapid increase in I.Q. of Puerto Rican students not realizing that the increase in I.Q. was due to their learning English.[3] This country's history books are filled with countless cases of unequal treatment of Hispanics and other minorities due to cultural and language differences. Despite the importance attached to formal education throughout this nation's history, language other than English has almost always been treated as a barrier rather than a venicle for educating.

Historically, Hispanics, in particular have struggled on many fronts in their quest for equal opportunity in

education. Today bilingual education has been identified as a vehicle that will equalize opportunities in the educational system for those language minority children who otherwise would not make it. Educators who attest to the philosophy of bilingual education no doubt will credit those who fought to get Federal bilingual legislation passed as the beginning of change for the better. Today there are a number of states that have passed bilingual laws mandating this method of equalizing education for Hispanics and other minority language groups. Yet the struggle is not over primarily because bilingual education has not been fully supported nor financed adequately at national, state or local levels.

Wisconsin is among those states that have enacted mandatory bilingual legislation. However, during a discussion of bilingual education issues at a Wisconsin Advisory Committee meeting, it was reported that such legislation was inconsistent with Federal requirements. As language minority students have been falling between the "cracks" (inconsistencies between the laws), they may have been denied the benefits of such programs.

Several parent groups expressed concerns and complained to the Committee about existing bilingual programs, particularly the ones in Milwaukee, Racine and Kenosha. Their concerns centered around the adequacy and extent of the

program. They also charged that programs did not include all of the students who could benefit from them.

In addition, the Office for Civil Rights (OCR) of the former Department of Health, Education and Welfare (now Health and Human Services) conducted a compliance review of five Wisconsin districts with the highest concentration of language minorities. OCR found four of the five districts in non-compliance with Title VI of the Civil Rights Act of 1964.[4] Those compliance reviews were done based on the May 25, 1970 memorandum entitled "Identification of Discrimination and Denial of Services on the Basis of National Origin" derived from OCR's interpretation of Title VI.[5]

As a result of the complaints expressed by parents to the Committee during OCR's compliance review and negotiations with districts, the Wisconsin Advisory Committee decided to examine the extent to which bilingual education programs are being implemented in the state and to determine if any children are being denied the benefits of these programs. The examination focused on types of programs, number of teachers, whether there are parent advisory councils established by the districts, involvement of OCR, and the corrective actions of the districts with respect to the non-compliance findings.

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[1]Arnold H. Leibowitz, Educational Policy and Political Acceptance: The Imposition of English as the Language of Instruction in American Schools. Washington, D.C. Center for Applied Linguistics, March 1971.

[2]Meyer Weinberg, A Chance to Learn, A History of Race and Education in the United States (London: Cambridge University Press, 1977), p. 146.

[3]Ibid., p. 243.

[4]42 U.S.C. Secs. 2000d - 2000d-6 (1976 and Supp. II 1978).

[5]Kenneth A. Mines, Director, Office for Civil Rights, Region V, letter to Dr. Lee R. McMurrin, Dec. 27, 1978; Kenneth A. Mines, Director, Office for Civil Rights, Region V, letter to Dr. C. Richard Nelson, July 9, 1979; Kenneth A. Mines, Director, Office for Civil Rights, Region V, letter to Dr. Warren H. Soeteber, July 9, 1979; Kenneth A. Mines, Director, Office for Civil Rights, Region V, letter to Dr. John J. Hosmanek, May 9, 1980, 35 Fed. Reg. 11595 (May 25, 1970).

Chapter 2

LEGISLATIVE OVERVIEW

Federal Mandate

The Wisconsin Advisory Committee's concern regarding Federal and state legislation stems from the fact that there are some basic differences in the requirements of the legal mandates. The Federal requirements derive their authority from Title VI of the Civil Rights Act of 1964, as interpreted by OCR in its May 25, 1970 memorandum to school districts with more than five percent national origin-minority group children.[1] OCR's authority to interpret the Civil Rights Act was strengthened by the Lau v. Nichols decision of the Supreme Court in 1974.[2] And in 1975, OCR released what have come to be known as the Lau Remedies; a document to be used in guiding OCR officials in determining compliance by school districts with Title VI of the 1964 Civil Rights Act.[3]

Lau Remedies mandate the school district to conduct linguistic assessments of pupils with a non-English language background. When the district finds 20 or more pupils of the same language group identified as having a primary or home language other than English, it must institute a special language program, defined as any of the following or a combination thereof:

- a transitional bilingual education program
- a bilingual-bicultural program, or
- a multilingual-multicultural program.

An exclusive English as a Second Language (ESL) program may not be sufficient, although such ESL programs will have to be a component of any bilingual education program.

Federal Bilingual Legislation

A bilingual-bicultural program is defined as one using the student's native language and culture in developing his/her necessary skills, while developing the same in English. Transitional programs are those that cease when the student has mastered English. Multilingual/multicultural, basically the same as bilingual-bicultural except that it involves more than one language and culture, as well as English.

In any plan that is implemented, teachers must be bilingual, familiar with the students' culture. Students must not be placed in segregated classes, except to the minimal extent needed for the bilingual education program. Parents must be informed of the availability and contents of the bilingual program. And finally, school districts must evaluate the performance of the plan.[4]

Recently OCR has made attempts to mesh its Title VI obligations with other legal enforcement responsibilities under the Rehabilitation Act of 1973. 29 U.S.C. Secs. 701-794 (1976). Section 504 prohibits discrimination against handicapped individuals under any program or activity receiving Federal financial assistance.[5] What the Lau Remedies did for Title VI compliance, can be said of the strong statement of policy explicit in Congress' enactment of the Education of All Handicapped Children Act, 20 U.S.C. Secs. 1232, 1401, 1405, 1406, 1411-1420, 1453 (1976). This latter legislation outlined the process by which school districts were expected to comply with Section 504 of the former Act. The concept of "appropriate education"[6] present in the text and implementing regulations of these Acts provide strong support for the notion that national origin language minority handicapped students of limited English language proficiency have a statutory right to understandable instruction, i.e., with consideration to and in the native language of the LEP student.[7]

While constantly under attack by recalcitrant school districts, OCR's enforcement guidelines and practices for both Title VI and Section 504 have been supported by Federal courts in a number of occasions.[8] OCR has been known to rely upon these court rulings for further authority and legitimacy in their enforcement actions. They also rely on internal OCR

legal opinions such as the Palomino Memorandum[9] to be discussed later. Therefore there is no doubt that OCR in its enforcement of Federal non-discrimination provisions relative to national origin language minority students, has gone beyond the minimum rule declared in its 1970 Memorandum, supra.

The first proponents of bilingual legislation were Senator Ralph Yarborough (Texas) and Senator Joseph M. Montoya (New Mexico) who introduced the bill in 1967, which then was passed into law as the Bilingual Act of 1968. (Title VII of the Elementary & Secondary Education Act of 1965, as amended, hereafter referred to as Title VII ESEA).[10] The Bilingual Education Act imposed no requirements on school districts to provide services for non-English speaking children. Instead, it set out to provide financial assistance for those districts interested in establishing programs for non- or limited-English speaking children.[11]

The Act as amended in 1978 defines bilingual education as "instruction given in, and study of, English and,...to the extent necessary to allow a child to progress effectively through the educational system, the native language of the children with limited-English ability."[12] A school district may apply in competition for funds to carry out classroom bilingual education programs, and for planning, training, and other ancillary services to such programs.[13] The state will be consulted prior to a school district grant. The State

Department of Education can also apply for a grant for administrative and other ancillary services to bilingual education (and can obtain such a grant up to 5 percent of all funds allocated to other grantees in the state).[14]

An institution of higher education, in consultation or jointly with a school district, may also apply for grants for bilingual education research, training, and related activities.[15]

A school district's bilingual education proposal and program must have an advisory committee for preparation and implementation.[16] Funds requested and received by a school district cannot supplant the local financial effort on behalf of children of limited-English ability.[17] Moreover, failure to obtain a Bilingual Education grant does not free the school district from previously discussed obligations under Title VI of the Civil Rights Act.[18] To ensure this maintenance of effort, Federal grants under Title VII ESEA are made only for three years.[19]

Although Title VII ESEA does not carry a mandate, its congressional enactment is significant in two ways: first, it recognizes the need for school districts to provide special education programs to non-English speaking pupils;[20] second, the programs of bilingual education funded through this act served as a model for those school districts implementing state bilingual education mandates.

The 1974 Equal Educational Opportunities Act (EEOA)[21]

Soon after the Supreme Court's decision in Lau, Congress acted to codify its mandate in the educational amendments of 1974. The new legislation, while not specifically passed with national origin minority children in mind, did incorporate in its text a strong reference against discrimination on the basis of language. Specifically, the act prohibits a state from denying equal educational opportunities by,

> the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs (emphasis added)[22]

This piece of legislation has become increasingly important in bilingual education litigation. Since 1975 a number of federal courts have invoked it for deciding claims for bilingual education services by Hispanic and other national origin minorities.[23] Even Black children received a favorable ruling supporting specialized instructional services to overcome language barriers caused by their use of "Black English dialect."[24]

While Section 1703(f) does not specifically require bilingual education for LEP students, many courts are of the belief that

given all the governmental support received by bilingual education in the form of the 1968 Bilingual Education Act, as amended; the OCR clarifying rules and the Lau Remedies; and reports on the positive experience of many states with their bilingual legislation; it makes sense to require bilingual education as appropriate action for assuring equal educational opportunity.[25]

Perhaps the most significant litigation along equal educational lines is a Ninth Circuit ruling holding that the state education agency and its agents have a legal obligation to supervise compliance with school districts' federal obligations under subsection 1703(f).[26] In that case the state of Idaho, argued that the proper parties to a non-compliance suit are the local school districts. The Court rejected the argument and ordered, on remand, that the state education agency be required to determine the extent of the educational needs of LEP students, as well as the quality of the bilingual and other language programs in operation within its jurisdiction. While that is not judicial authority in the Seventh Circuit, which covers Wisconsin, it is very persuasive authority.

State Legislation

Legislation for bilingual education in the State of Wisconsin was first introduced in the Spring of 1974, but that

bill died in committee.[27] Senator Henry Dorman of Racine introduced Bill 126 in February of 1975 and soon after a similar bill was introduced in the House of Representativesby Representative Joseph Czerwinski of Milwaukee.[28] In March 1976 the Wisconsin Bilingual Education Act, (Subchapter VII of Chapter 115 of the Wisconsin Statutes) bill was approved by a narrow margin and signed into law by the governor in May of the same year.[29]

Under the Wisconsin Act Bilingual education is defined as a program of instruction in reading, writing, and speaking the English language, and instruction--through the use of the pupil's native language--in the subjects necessary to permit the pupil to progress effectively through the educational system.[30] Bilingual education programs may be basic (K to 8th grade) or extended (all grades). These programs are aimed at students with limited-English ability, and are intended to allow the student to go on to English-only programs.[31]

School Districts are obliged to:

> make an assessment of students with limited-English ability by March 1 of each year.[32]
>
> if such an assessment shows 10 students or more in grades K-3, in attendance at a particular school, or 20 students or more in grades 4-8 or high school, the district must offer a program in education.[33]

> parents must be informed of the availability of the program, and must give their consent for their child to be placed in such a program by May 1 of each year.[34]
>
> the 10 or 20 minimum count of pupils refers to those whose parents have given such consent.[35]

School districts must prepare and present to the Office of the State Superintendent of Public Instruction a program plan for bilingual education, to be approved before implementation begins. At the end of the year, the school district must submit a report on the program to the same office. This office must approve and certify it for reimbursement. The state will pay 70 percent of the school district's costs for bilingual education.[36] The State Superintendent will make an annual report to the legislature on the status of bilingual education [37]

Teachers in bilingual education programs must be bilingual.[38] Finally, school districts may, but are not mandated to, create advisory committees to the bilingual education programs.[39]

A Comparison Between State and Federal Mandates

Both state law and Federal law require school districts to take steps to insure equal access to education for

non- or limited-English speaking pupils. However, there are several significant differences in the guidelines for provision of bilingual education which can result in some non- or limited-English speaking pupils not receiving necessary services. For example, the Federal Bilingual Education Act applies only in those districts which are recipients of Federal grants.[40] Other rules apply to all districts, whether or not they have received such funds. The presence or absence of Federal bilingual education grants in a school district is immaterial to the obligations imposed on school districts by state law. Below is a comparison of state and Federal rules applicable in all Wisconsin school districts which highlights significant differences between the two.

Source of Authority

The state legislation is better defined and limited in one specific statute, with administrative regulations implementing it in practice: it mandates bilingual education as the appropriate program for non- or limited-English speaking pupils, under given conditions.

The Federal mandate draws its enforcement from several laws, the Office for Civil Rights Memoranda and instructions, and a number of court decisions of which the Lau v. Nichols Supreme Court decision is the most significant.

The Federal mandate starts with Title VI of the Civil Rights Act demanding non-discrimination. Case law explain the meaning of such legislation in the case of non-English speaking and limited-English speaking pupils, as was done in Lau.

The U.S. Supreme Court and other courts have further explained what services those pupils need to achieve equality of opportunities, including bilingual education. Other instructions and enforcement guidelines define in specific terms what education services the district must provide to comply with Federal regulations.[41]

Definitions

The Wisconsin bilingual legislation is generally comparable to other state bilingual enactments and ESEA's Title VII in terms of language and definitions of services. The client population is referred to under state mandates as Limited-English Speaking Pupils.[42]

The Federal term, Limited English Proficient (LEP), is considered more encompassing than the states. Both provisions are clear though that underachieving limited-English speaking students in required academic courses are eligible for bilingual services. The Federal definition is currently the most accepted.

Strength of Mandate

Under State law Wisconsin school districts "shall" provide bilingual education.[43] No penalty is assigned for non-compliance. The state generally relies on advice of school districts regarding their particular situation. Grant provisions are administered by the State Superintendent of Public Instruction.[44] There is no formal enforcement process.

In general, all districts that receive Federal funds must comply with the regulations, and non-compliance would lead to termination of those funds. The Department of Education, Office for Civil Rights (OCR) is charged with conducting periodic reviews and investigating complaints for non-compliance.

It should be noted that although the Federal Department of Education has the authority to withhold Federal funds[45] from the districts out of compliance, such authority is seldom exercised. However, it is involved in the review process, and in the negotiations that follow a finding of non-compliance. Such negotiations may technically be similar to those engaged in by the district with the state, although the latter are conducted with no ultimate penalty for non-compliance.

Time for Compliance

The Wisconsin law has been implemented by phases, covering grades K-3 in July 1977, Grades 4-8 in July 1979, and grades 9-12 in July 1981.[46] OCR interprets Federal guidelines to mean that a district is obligated to act immediately when in non-compliance and to correct the violation.[47]

Furthermore, Federal law requires bilingual education only through 8th grade. OCR has not required a bilingual program after that grade but does obligate the school district to provide, at a minimum, English as a Second Language (ESL) for limited English speaking pupils.[48]

Number of Pupils That Trigger Mandate for Bilingual Education

Under state law districts must provide bilingual education if there are 10 limited-English speaking pupils in grades K-3 and 20 in grades 4-12 in a school attendance area.[49] While the Federal law does not define pupil requirements in specific numbers, OCR regulations require bilingual services where there are 20 limited-English students or more district wide.[50] The state law is more permissive in that if there are smaller number scattered in various schools, the school district may opt not to provide a bilingual program.[51]

In some districts where the number of limited-or non-English speaking pupils is not sufficient in a particular

attendance area to trigger the state requirement, pupils could be reassigned to meet the numerical requirements. However, Federal rules require that services be provided in the school pupils normally attend. Some districts may use the federal rules to justify their refusal to reassign pupils for bilingual education purposes.[52]

The state has allowed several districts to consolidate and group the students that are scattered throughout the district for bilingual services.[53] However the state does not reimburse a district that transports children who are travelling less than one mile to attend school. The Bilingual Education Act also does not provide reimbursement for trips under one mile, undertaken to attend a bilingual education program. This has caused a number of parents to keep their children out of, or to withdraw their children from, bilingual programs.

Parental Consent

There is a substantial difference between state and Federal requirements regarding parental consent. The state provision specify that parents must give consent prior to placing the child in a bilingual program.[54] Only children whose parents have provided consent are counted toward the minimum that makes the program mandatory.[55] On the other hand Federal provisions specify that pupils must be provided the special

service if they are Limited-English Proficient. Once assigned to the program the parent has the rights to withdraw the child.

The parental consent clause has been a major controversy in Milwaukee where parents argued that many eligible children were not in programs because parents were not adequately informed. OCR, when confronted with a similar provision in a compliance plan submitted by a school district in California, concluded (in what has become known as the Palomino Memorandum) that under Federal requirements a school district has the obligation to identify, assess, and place the student first and parents have the right to withdraw the student from the program within the withdrawal/appeal process established by the district.[56]

Parental Involvement

The state law does not have any provisions for parental involvement. However in the Federal law, Parent Advisory Councils must be established. Parents must also be informed by schools on of the instructional goals of the program and the progress of their children in the program.[57]

Special Education and Supportive Services for Limited English Proficiency Students

The Wisconsin rules implementing the act is cognizant of the need for special services (e.g., bilingual speech

therapist, bilingual counselors, diagnostic teachers, etc.) to limited-English speaking students. Yet the same rules declare expenses for special services are not reimbursable.[58]

The Federal provisions requires these services for all Limited-English Proficient pupils. Testing and placement in such classes for LEP pupils must be bilingual and use bilingual staff as needed.

Bilingual Staff and Training

State law requires bilingual teachers to be bilingual and certified[59] while Federal law provides for teachers to be bilingual to the extent possible.[60] Under certain circumstances Federal rules provide for training programs.[61] Training is permissible under state law and is reimbursable at the discretion of the Superintendent of Public Instruction.[62]

Program Entitlement and Evaluation

The state program operates as a formula grant providing 70 percent reimbursement to a school district for the amount expended on a bilingual program for the preceeding year.[63] Under the Federal Bilingual Education Act grants are discretionary at least until 1984. Other Federal dollars may be used also to support bilingual program.

The state requires an annual report on the number of pupils in bilingual programs and an itemized statement of all

disbursements.[64] The Federal Bilingual Education Act and accompanying regulations require a plan for program evaluation, including an assessment of the impact of the program on the performance of pupils, as part of the application for funds.[65]

This comparison shows there are significant differences in state and Federal requirements pertaining to bilingual education. Given these differences it may be possible for a district to be in compliance with state requirements but out of compliance with Federal requirements. Children who might be eligible for bilingual education programs according to Federal rules may, in fact, not be receiving those services. Given these differences, some students may "fall through the cracks" and be denied educational services they need and are eligible for by law. Below are two examples.

Under Federal law services are to be provided to students in the schools they would normally attend.[66] However, under state law the district is required to have a given number of students at different grade levels before a program can be implemented with state reimbursement.[67] Therefore, if potential beneficiaries of bilingual programs live throughout the district with only a few residing in the attendance area of any particular school, the district can consolidate the children into one school so that minimum numerical requirements are met. However, the state does not mandate the district to do this and neither does Federal law. It is possible that a number of

districts in Wisconsin have just under the required number of children in individual schools and will not centralize them for bilingual services. These children have fallen between the cracks of the laws and may never receive the benefits of bilingual education.

Another example involves the issue of parental consent. For a child to be enrolled in a bilingual program parental consent is not expressively required in the Federal law, although the parent has the option to remove a child from the program. Under state law parental consent is required before a child is placed in the program. Unless the district takes affirmative steps to assure that the parents are informed and a consent is secured, the child may not be placed in the program. It is conceivable that some parents may not understand the program's intent and not give consent for their children to participate. If a parent shows no preference one way or the other, the child will not be placed in the program.

That such an "admissions" policy may result in the denial of bilingual education, in violation of Lau, was acknowledged in an OGC opinion regarding a proposed remedy for a Title VI violation prepared by the Pajaro Valley Unified School District in California.[68] Under that proposal if parents do not authorize the enrollment of their child in a bilingual program, the child will not be placed in the program. Arguing that the Lau Remedies intend for all non- or limited-English

speaking students to get the form of education they need regardless of parental consent and that the mandated affirmative duties require something more than benign neutrality, OCR regional attorney Paul Grossman claimed the Pajaro remedy was not in compliance with Lau, in part because of the parental consent provision.

The Federal and state governments have the responsibility of enforcing their bilingual education laws and regulations. The next chapter discusses some of the compliance reviews conducted by the Department of Education, Office for Civil Rights and the role of the Bilingual-Bicultural Education Department of the Wisconsin Department of Public Instruction.

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[1]J. Stanley Pottinger, Director, Office for Civil Rights, Department of Health, Education and Welfare, Memorandum to School Districts with More Than Five Percent National Origin-Minority Group Children, Identification of Discrimination and Denial of Services on the Basis of National Origin, May 25, 1970 (hereafter cited as May 25 Memorandum); 35 Fed. Reg. 11595 (1970).

[2]Lau v. Nichols, 414 U.S. 563 (1974).

[3]U.S. Department of Health, Eduction and Welfare, Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful Under Lau v. Nichols, (1975), (hereafter cited as Lau Remedies).

[4]Lau Remedies.

[5]29 U.S.C. Sec. 794 (1976). Lora v. Board of Ed. of City of New York, 456 F. Supp. 1211 (E.D.N.Y. 1978).

[6]20 U.S.C. Sec. 1401 (18)(1976).

[7]Id.; generally.

[8]In support of "Lau Remedies": Cintron v. Brentwood Union Free School District, 455 F. Supp. 57 (E.D.N.Y. 1978). In support of Section 504 of Rehabilitation Act and P.L. 94-142, see: Jose P. v. Ambach, 79 c 270 (E.D.N.Y. Jan. 10, 1980) and Lora, supra.

[9]U.S. Government Memo from Paul Grossman (Assistant Regional Attorney for OCR) to John E. Palomino (Chief Elementary & Secondary Education Branch, OCR Region IX), March 16, 1978 (hereafter cited as Palomino Memorandum).

[10]20 U.S.C.A. Secs. 3221-3261 (Supp. 1981).

[11]Joseph M. Montoya, "Bilingual Education" Washington Post, October 22, 1974.

[12]20 U.S.C.A. Sec. 3223(a)(4)(A) (Supp. 1981).

[13]20 U.S.C.A. Sec. 20 U.S.C.A. Sec. 3231(b)(3)(A) (Supp. 1981).

[14]20 U.S.C.A. Sec. 3231(b)(5)(B) (Supp. 1981).

[15]20 U.S.C.A. Sec. 3231(b)(1) (Supp. 1981).

[16]20 U.S.C. Sec. 3223(a)(4)(E) (Supp. 1981).

[17]20 U.S.C.A. Sec. 3223(b)(3)(G) (Supp. 1981).

[18]Id.

[19]20 U.S.C.A. Sec. 3223(e)(1) (Supp. 1981).

[20]20 U.S.C.A. Sec. 3222(a) (Supp. 1981).

[21]20 U.S.C. Secs. 1701-1721 (1976).

[22]20 U.S.C. Sec. 1703(f) (1976).

[23]See e.g.: Morales v. Shannon, 516 F.2d 411 (5th Cir. 1975); Cintron, supra; United States v. State of Texas, 506 F. Supp. 405 (E.D. Tex. 1981); Castaneda v. Pickard, 648 F. 2d 989 ((5th Cir. 1981); Idaho Migrant Council v. Board of Education, 647 F. 2d 69 (9th Cir. 1981).

[24]Martin Luther King Jr. Elem. School Children v. Ann Arbor School District, 473 F. Supp. 1371 (E.D. Mich. 1979).

[25]See generally United States v. States of Texas, Supra.

[26]Idaho Migrant Council, supra.

[27]1975 Wisconsin Senate Bill 747.

[28]Tony Baez, Ricardo R. Fernandez, Judith T. Guskin,

Desegregation and Hispanic Students: A Community Perspective, (Russlyn, Va.: InterAmerican Research Associates, Inc. 1980), p. 12.

[29]Ibid.

[30]Wis. Stat. Ann. Secs. 115.955(6) and 115.955(8)(b) (West Cum. Supp. 1982).

[31]Id.

[32]Wis. Stat. Ann. Sec. 115.96(1) (West Cum. Supp. 1982).

[33]Wis. Stat. Ann. Secs. 115.97(2) and 115.97(3) (West Cum. Supp. 1982).

[34]Wis. Stat. Ann. Sec. 115.96(3) (West Cum. Supp. 1982).

[35]Wis. Stat. Ann. Secs. 15.97(2) and 115.97(3) (West Cum. Supp. 1982).

[36]Wis. Stat. Ann. Sec. 115.995 (West Cum. Supp. 1982).

[37]Wis. Stat. Ann. Sec. 115.996 (West Cum. Supp. 1982).

[38]Wis. Stat. Ann. Sec. 115.97 (West Cum. Supp. 1982).

[39]Wis. Stat. Ann. Sec. 115.98 (West Cum. Supp. 1982).

[40]20 U.S.C.A. Sec. 3222 (Supp. 1981).

[41]See for example, OCR Memorandum of May 25, 1970 to School Districts with language minority pupils; Lau v. Nichols; Lau Remedies; Other Court decisions; e.g., Cintron v. Brentwood Union Free School District, 455 F. Supp. 57 (1978).

[42]Wis. Stat. Ann. Sec. 115.955(1) (West Cum. Supp. 1982).

[43]Wis. Stat. Ann. Sec. 115.95(2) (West Cum. Supp. 1982).

[44]Id.

[45]Teitelbaum and Miller Article, p. 153.

[46]Wis. L. 1975, c.395, Sec. 11.

[47]Teitelbaum and Miller Article, p. 152.

[48]E.g., Hosmanek letter.

[49]Wis. Stat. Ann. Secs. 115.97(2) and 115.97(3) (West. Cum. Supp. 1982).

[50]Lau Remedies.

[51]Wis. Stat. Ann. Secs. 115.97 (2) and 115.97(3) (West. Cum. Supp. 1982).

[52]E.g., McMurrin letter.

[53]Wis. Stat. Ann. Sec. 115.97(1) (West Cum. Supp. 1982).

[54]Wis. Stat. Ann. Sec. 115.96(3) (West Cum. Supp. 1982).

[55]Wis. Stat. Ann. Secs. 115.97(2) and 115.97(3) (West Cum. Supp. 1982).

[56]Palomino Memorandum.

[57]20 U.S.C.A. Secs. 3223(a)(4)(E) and (F) (Supp. 1982).

[58]Wisc. Adm. Code Rules 13.05 and 13.07 (1977).

[59]Wis. Stat. Ann. Sec. 115.995(2) (West Cum. Supp. 1982).

[60]20 U.S.C.A. Sec. 3231(b)(3)(C) (Supp. 1981).

[61]20 U.S.C.A. Sec. 3233 (Supp. 1981).

[62]Wis. Stat. Ann. Sec. 115.991 (West Cum. Supp. 1982).

[63]Wis. Stat. Ann. Sec. 155.995(1) (West Cum. Supp. 1982).

[64]Wis. Stat. Ann. Sec. 115.993 (West Cum. Supp. 1982).

[65]20 U.S.C.A. Sec. 3231(b)(3)(C)(iii) (Supp. 1981).

[66]20 U.S.C.A. Sec. 3223(a)(4)(B) (Supp. 1981).

[67]Wis. Stat. Ann. Sec. 115.977(2) (West Cum. Supp. 1982).

[68]Palomino Memorandum.

Chapter 3

ENFORCEMENT

Today, school districts are obligated to provide a program that will enable limited-English students to participate equally in the school curriculum. A substantial number of states have enacted legislation mandating bilingual education for children whose language is other than English. In some areas community organizations have forced districts to provide such programs; other districts have been forced by the courts. The most outstanding court case supportive of bilingual education was the Lau case. That 1974 ruling by the Supreme Court clearly requires federally funded districts to address the needs of non-English speaking students.

Office for Civil Rights Review

Title VI of the Civil Rights Act of 1964 became the principal legal basis for the establishment of bilingual programs. Almost all districts today fall under the prohibition of Title VI which states: "No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity

receiving Federal assistance."[1] A major breakthrough in understanding the meaning of this Act for non-English speaking pupils came with the passage of the 1968 amendment of the Elementary and Secondary Education Act of 1965, known today as the Bilingual Education Act. With this legislation, legislators accepted for the first time the belief that children who spoke a language other than English might be best served by the utilization of their native language.[2]

Consistent with this trend in 1970 the Department of HEW issued a memorandum stipulating the policy that school districts with five percent or more national origin minority group children have an obligation under Title VI to equalize education for language minorities.[3] It was clear from this memorandum that where there were children who could not speak and/or understand English, excluding them from effective participation in programs offered by the district; the district was obligated to take affirmative steps to rectify the language deficiency in order to open instructional programs to these students.[4] Following the Supreme Court's Lau decision in 1975, the HEW Office of Education along with its Office for Civil Rights (OCR) jointly issued the findings of a task force set up to plan its implementation. The findings of the task force became known as the Lau Remedies.[5] OCR used these findings or remedies as a guide to evaluate whether district bilingual programs comply with Title VI of the Civil Rights Act

of 1964. The Lau Remedies do not implicitly mandate bilingual programs. But if a school district found out of compliance decides not to provide bilingual programming, it may pursue or propose other programs not outlined in the Lau Remedies, as long as it can demonstrate that such alternative programming is equally effective in ensuring equal education opportunity.[6]

The courts in several instances have supported the use of bilingual education as a means to provide an adequate educational program for language minorities. For example in Serna v. Portales Municipal Schools[7] the court ruled against the use of English as a Second Language (ESL) as the only means for instruction. ESL was deemed inadequate and the district was ordered to implement a bilingual program. In a more recent decision, Cintron v. Brentwood Union Free School District[8] the court ruled that limited English speaking students had a Federal right to a bilingual-bicultural program. These are only two of several other court cases where bilingual programs have been ordered by the judicial system.[9]

The Wisconsin Advisory Committee identified five districts which had significant numbers of language minorities and coincidentally, had been reviewed by OCR for compliance with the requirements of Title VI. Below is a summary of the review conducted in Waukesha, Milwaukee, Racine, Sheboygan, and Kenosha between 1978 and 1980.

Four of the five districts were found in non-compliance with Title VI: the Milwaukee School District in December 27, 1978, Racine Unified on March 16, 1979, Sheboygan School District, July 9, 1979, and Kenosha School District, May 9, 1980.[10] Similar violations were found in each district.

First, all districts had failed to adequately identify and assess non- and limited-English speaking national origin minority students.[11] For example, the Milwaukee district relied heavily on the judgment of the teacher to identify the ethnic background of the students and their language proficiency, but provided no in-service training on the bases for making such determinations.[12] No testing instrument had been used to validate the results of the district's selection process. No other reliable method was used to identify and assess non- and limited-English speaking children.[13] The Racine Unified District on the other hand was using a language dominance test but the test was totally inadequate to determine all the students' needs for adequate language due to lack of English proficiency.[14] Racine was asked to adopt an English language proficiency test or tests that would more effectively determine the degree of need and eligibility for bilingual services.

In Sheboygan the principals of the schools and the bilingual instruction eligibility committee were determining the language needs of the Sheboygan non-English speaking children.[15] OCR found that the State Department of Public

Instruction had received a report from Sheboygan for school year 1977-78 which indicated that 86 Hispanic and 16 non-Hispanic students were identified in this manner. However, in the Title VII application for bilingual funds, for the same year, 217 students of limited English proficiency were identified by the district. The 1978-79 pupil survey report indicated 79 limited English pupils while the bilingual coordinator estimated 62 in grades K-6 above.[16] These different figures indicated the inconclusiveness of the data resulting from deficiencies in the methods for identifying minority language pupils.

In Kenosha the district was using a 15 year old method which consists of an "Enrollment Blank," written in English, that parents must fill out indicating what language is spoken in the home.[17] It was estimated by the district coordinator of pupil services that 50 percent of these forms were never filled out.[18] In all, Kenosha had an inadequate method of determining language spoken at home, an inadequate method of identifying students, and no valid instrument to evaluate English proficiency.[19]

Assessment procedures were also found to be inadequate in the case of the Racine Unified School District.[20]

The second violation cited by OCR focused on the manner the district followed to provide all of the eligible students with services. In Milwaukee, OCR reviewed the

enrollment and Census data the district had gathered and determined that 47 percent of the total students identified as eligible for the program were not receiving bilingual education.[21] Part of the reason given by the district was that parents did not respond to a letter of notification which stated the location where the program was being offered. The district maintained that according to state law, parental consent was required before a child was to be enrolled in a program.[22] OCR responded that, "While the policy of requiring parental consent prior to placing a child in a bilingual education program may be consistent with state regulation, it is the Department's position that to exclude from bilingual programs non- and limited-English speaking children whose parents are either unaware of or fail to respond to an offer of program placement falls short of the requirement to take 'affirmative steps' as put forth in the May 25, 1980 memorandum."[23]

In Racine more than 288 or 43 percent of the eligible students were not enrolled in bilingual classes. Most students were placed upon the decision of the student's teacher and/or the English as a Second Language (ESL) teacher.[24] According to OCR, "...students thought to be sufficiently proficient in English were summarily exited from the program at the end of the school year."[25] Parents received inadequate information and consequently kept their children from bilingual programs.[26]

Another issue raised by OCR's investigation was that the Racine School District had arranged the students' class schedule at Park High in such a manner that they could not keep up the full schedule to a point that it hindered their graduation.[27]

In Sheboygan OCR found that the district had not developed eligibility criteria for bilingual programs district wide. Based on its investigation less that 50 percent of the language minority students received special services.[28]

Kenosha was also cited for not providing all eligible language minority students with a program. In addition, the district was told that its policy on reading instruction was unacceptable because the practice of giving instruction in English to all students in the bilingual programs regardless of English language proficiency was a violation of Title VI.[29] The policy as applied by the Kenosha district effectively denied equal educational opportunities to non-English speaking students.[30]

Third, each of the four districts had failed to adequately assess the need for and provide services to limited-English speaking national origin minority group children in need of special education.[31]

Finally, all of the districts failed to establish a uniform system of notifying the parents of general school policies and activities in the language they understand. While

some effort to translate the notices had been undertaken, it was not done system-wide in all instances.[32]

The Office of Civil Rights is obligated to secure compliance from the districts on these aforementioned violations. The districts were requested to develop a voluntary compliance plan that would correct all of the violations and that would be acceptable by OCR. The districts were also advised that if they did not develop an acceptable plan , OCR would seek compliance through administrative enforcement proceedings pursuant to Title VI regulations.[33]

Negotiations between OCR and each of the districts followed. All four districts have presented compliance plans. They have been approved by OCR.[34]

The Role of the State

The Wisconsin Bilingual Bicultural Law was adopted by the state legislature in 1976 and was implemented in 1977.[35] The authors designed the law so that limited-English speaking pupils receive instruction to improve their reading, comprehension, writing and speaking ability in the English language.[36] Although the word bicultural is used in the title of the law, according to Elena Chavez-Mueller, the authors did not intend to include provisions for cultural enhancement in the programs. According to Elena Chavez-Mueller, former

supervisor of the State Bilingual Department, it was an oversight on the part of the legislators. The culture of the child is not emphasized in the law.[37]

Bilingual programs may be implemented in grades K-8, or extended to all grades through the use of the native language of the limited-English speaking pupils.[38] The objective is to successfully instruct in the subjects necessary to permit the pupil to progress effectively through the educational system.[39] The law requires that the district carry out the following steps:

> conduct a census and identify the limited-English speaking students in the district, classify them according to level of proficiency and send to the Department of Public Instruction a summary specifying the numbers according to grade and language;[40]
>
> offer a program in bilingual education if such an assessment shows 10 students or more in grades K-3 or 20 students or more in grades 4-8 or high school havding parental consent;[41]

notify the parents on or before April 1 of each year before the child can be placed in the bilingual program, since parental consent is required;[42]

provide a certified bilingual teacher;[43]

prepare a bilingual program plan and submit it to the State Superintendent of Public Instruction for approval before the district can be reimbursed.[44]

The Wisconsin State Department of Public Instruction was given the authority to implement the rules of subchapter VI of Chapter 115, for bilingual programs in the state.

According to the Assistant Supervisor Iris Valdivia (the only staff person employed by the state in the Bilingual-Bicultural Education Department), if a district has secured the parental consents, and if it has certified teachers to teach the program, only then is the district eligible for state aid. The state will reimburse up to 70 percent of the cost of the program. Included in the reimbursement is the salary of the teachers, teacher aides and counselors, and the cost of books and materials.[45] However, the state will reimburse only for the time that the teacher spends with the limited-English speaking students. If there are students in the classroom who are other than limited-English speaking, the

state will not reimburse for the time the teacher spends with those children.[46] Ms. Valdivia's responsibilities include reviewing description of services submitted by each district, including the types of program implemented (whether it is a pull-out or self-contained model), the number of children served, the length of time the children spend in the program, and books and materials used. After evaluating this information she then approves or disapproves the program. Following the evaluation of applications, she must visit all the districts during the year.[47]

The State Department of Public Instruction (DPI) has established no procedure to ensure implementation of the provision of the bilingual education law by the district.[48] When asked whether there have been any occasions in which a district was out of compliance with the state requirements, Ms. Valdivia responded: "...as a representative of the state, she [the supervisor] cannot go as a policeman or policewoman,...we have to trust the school district[49]....If from the community there is a response that there are more children than they are reporting, then the supervisor goes and investigates the situation. So far, we haven't had a case."[50] Ms. Valdivia also said that census forms are not one hundred percent accurate although the state provide each district with suggested procedures to follow for identifying and assessing non-English speaking students.[51]

The lack of strong leadership role by the state Department of Public Instruction in implementing bilingual education is felt particularly when there may be apparent or real contradiction in the state and Federal requirements. For example, OCR found consistently that districts were not following a uniform system of soliciting consent from the parents. Each district had established its own process of notifying parents. Notices were often not written in the language understandable to the parents of non-English speaking students. Each district determines by its own criteria when to take the student out of the program.[52] "Each district [has] submitted to us those forms, but each district has a different form. It's not mandated by the state...,"[53] responded Valdivia.

According to Valdivia there are several discrepancies in state and Federal legislation. For example, the state law refers to "limited English speaking" while the Federal legislation refers to "limited English proficiency." The Federal legislation is broader including not only students limited in speaking but also in writing and reading.[54]

OCR had found Milwaukee, Racine, Sheboygan and Kenosha out of compliance, but according to the state, those districts met the state requirements and were operating with its approval.[55] Community groups in Racine and Kenosha have complained to the state regarding violations, but the state has

yet to find any violations.[56] Most of these complaints have centered on discrepancies in the number of students reported by the districts in the program and the actual number served.[57]

Based on information the Committee received from the Wisconsin Department of Public Instruction, Bilingual-Bicultural Education, does not conduct any random checks of school districts receiving funds for bilingual programs.[58] "Its very hard when you consider that there are 400 districts [in the state]," responded Ms. Valdivia.[59] However, there are approximately eight districts receiving state funds for bilingual programs. There were two instances where state bilingual staff provided the districts with technical assistance because these districts were interpreting the state law improperly. Racine and Kenosha were the two teaching Spanish dominant children in English rather than their native language.[60] According to Valdivia, they have corrected this practice.

Generally, the state accepts information provided by the school districts without question. Given the size of the staff employed by the state to administer bilingual education programs, it would be difficult if not impossible to conduct an effective monitoring program. It is not clear to the Wisconsin Advisory Committee why the state Department of Public Instruction has not staffed adequately its Bilingual-Bicultural Education Department.

At present, the Bilingual Department has no full-time supervisor. The assistant supervisor (Valdivia) and the secretary are part-time and they are paid with Federal funds. Valdivia said this was a drawback, and that if the state was in full support of bilingual education it would have a full-time supervisor, assistant and secretary.[61] She added that it is virtually impossible to monitor 427 districts with that number of staff and "on the 2nd of July, I don't even know if I'm going to be around."[62]

Information available from the state suggests, however, that money is not the principle reason. Table I indicates that a substantial and growing amount of money earmarked for bilingual education has been returned by the Department of Public Instruction, Bilingual Education to the state treasury. In the past two years approximately $500,000 has been returned, representing 27 percent and 32 percent respectively, of state funds intended for bilingual education

At the same time the number and percentage of students eligible for services who have not received those services have also increased (see Table II). The number of eligible students not served increased from 913 (37 percent) to 1,125 (50 percent). Apparently there is money for increased bilingual services, including perhaps more effective monitoring of compliance with state regulations.

Table I

Bilingual Education Funds

Year	Total Appropriated	Total Reimbursed to Districts	Total Unspent
1978-79	$ 1,667,400	$ 1,220,819	$ 446,581 (27%)
1979-80	1,721,600	1,171,273	550,327 (32%)

Table II

Students Eligible for Services

Year	Total Identified Needing Service	Total LES* Served	Total Non-LES Served	Total Served	Total LES Not Served
1978-79	4,190	2,622	913	3,535	1,568 (37%)
1979-80	4,514	2,252	1,125	3,647	2,262 (50%)

*Limited-English Speaking

Source: Wisconsin Department of Public Instruction

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[1]42 U.S.C. Secs. 2000d - 2000d-6 (1976 and Supp.II 1978); See also Herbert Teitelbaum, Richard J. Hiller, "Bilingual Education + The Legal Mandate; Harvard Educational Review, Vol. 47 No. 2 May 1977 (hereafter cited as Teitelbaum and Miller Article), p. 141.

[2]Peter D. Roos, Director, Education Litigation, Mexican American Legal Defense Fund. Bilingual Education: The Hispanic Response to Unequal Educational Opportunity (undated paper) (hereafter cited as Roos Paper).

[3]U.S. Commission on Civil Rights, A Better Chance to Learn: Bilingual/Bicultural Education, May 1975, p. 176; See also 35 Fed. Reg. 11595 (May 25, 1970).

[4]Roos Paper, p. 5; See also 35 Fed. Reg. 11595 (May 25, 1970).

[5]Ibid., p. 16, See also Lau Remedies.

[6]Teitelbaum and Hiller Article, p. 144.

[7]351 F. Supp. 1279 (D.N.M. 1972).

[8]455 F. Supp. 57 (E.D.N.Y. 1978).

[9]Roos paper, p. 18-19.

[10]See footnote __ in Chapter 1.

[11]See footnote ___ in Chapter 1.

[12]Kenneth A. Mines, Director, Office for Civil Rights, Region V, letter to Dr. Lee R. McMurrin, Dec. 27, 1978 (hereafter cited as McMurrin Letter).

[13]Ibid.

[14]Kenneth A. Mines, Director, Office for Civil Rights, Region V, letter to Dr. C. Richard Nelson, July 9, 1979 (hereafter cited as Nelson Letter).

[15]Kenneth A. Mines, Director, Office for Civil Rights, Region V, letter to Dr. Warren H. Soeteber, July 9, 1979 (hereafter cited as Soebeter Letter).

[16]Ibid.

[17]Kenneth A. Mines, Director, Office for Civil Rights, Region V, letter to Dr. John J. Hasmanek, May 9, 1980 (hereafter cited as Hasmanek Letter).

[18]Ibid.

[19]Ibid.

[20]Ibid.

[21]McMurrin Letter.

[22]Ibid.

[23]Ibid.

[24]Nelson letter.

[25]Nelson Letter.

[26]Nelson letter.

[27]Ibid.

[28]Soebeter Letter.

[29]Hasmanek Letter
[30]Ibid.
[31]See footnote ___ in Chapter 1.
[32]See footnote ___ in Chapter 1.
[33]Hosmanek letter.
[34]Telephone interview June , 1981.
[35]Wis. Stat. Ann. Secs. 115.95-115.996 (West Cum. Supp. 1982).
[36]See generaly Wis. Stat. Ann. Sec. 115.95(5) (West Cum. Supp. 1982).
[37]Elena Chavez-Mueller, Supervisor, Bilingual-Bicultural Education, interview in Madison, Wis., July 3, 1980 (hereafter cited as Mueller Interview).
[38]Wis. Stat. Ann. S115.97 (West Cum. Supp. 1982).
[39]Wis. Stat. Ann. Sec. 115.95(5) (West Cum. Supp. 1982).
[40]Wis. Stat. Ann. Sec. 115.96(1) (West Cum. Supp. 1982).
[41]Wis. Stat. Ann. Sec. 115.97 (West Cum. Supp. 1982).
[42]Wis. Stat. Ann. Sec. 115.96(2) (West Cum. Supp. 1982).
[43]Wis. Stat. Ann. Sec. 115.955(2) (West Cum. Supp. 1982).
[44]Wis. Stat. Ann. Sec. 115.993 (West Cum. Supp. 1982).
[45]Wis. Stat. Cumm. Sec. 115.993 (West Cum. Supp. 1982).
[46]Milwaukee Transcript, p. 16.
[47]Ibid.
[48]Milwaukee Transcript, p. 19.
[49]Milwaukee Transcript, p. 19.
[50]Ibid.
[51]Ibid.
[52]Milwaukee Transcript, p. 23.
[53]Ibid.
[54]Milwaukee Transript, p.27

[55]Milwaukee Transcript, p. 25.
[56]Milwaukee Transcript, p. 30.
[57]Milwaukee Transcript, p. 31.
[58]Milwaukee Transcript, p. 40.
[59]Milwaukee Transcript, p. 34.
[60]Milwaukee Transcript, p. 30.
[61]Milwaukee Transcript, p. 48.
[62]Milwaukee Transcript, p. 49.

Chapter 4

COMMUNITY PERSPECTIVES

As part of its assessment of bilingual education in the state of Wisconsin, the Wisconsin Advisory Committee held two days of fact-finding meetings. The first meeting was held in Milwaukee on May 15, 1981 at the United Community Center and the second in Racine on May 16th at the John Bryant Center. The Committee sent out invitations to school officials, administrators of programs, teachers, parents, as well as community leaders. This chapter describes the main issues presented to the Committee at the fact-finding meetings.

Waukesha

According to Carlos Gamino, Director of bilingual programs for the Waukesha school district, bilingual programs in Waukesha are transitional in nature. In essence this means that the students attending the bilingual programs will be mainstreamed into the regular school program after three years.[1]

The program is presently serving approximately 300 Hispanic students in the following areas: two elementary schools K-3, three middle schools 4th, 5th, and 6th grades, and two high schools. In addition, 148 Laotian students participate in bilingual programs.[2] The district is receiving Title VII monies which provide salaries for five of the 29 members of the bilingual staff. The rest are funded 70 percent by state monies and 30 percent by local school funds.[3] The bilingual personnel is composed of 17 teachers, one social worker, one psychologist and 10 aides.

Gamino reported to the Committee that of the 676 Hispanic students in the Waukesha school district, approximately 100 to 200 students are not being served by the bilingual programs. He added, "The problem is that many of those students have said no, and sometimes there is not much you can do in one semester when the child says "No, I don't want to be in the programs."[4]

Gamino noted that the parents would have to be contacted at the beginning of the semester to emphasize their childrens' needs for special instruction.[5] However, Aline Lopez, a parent and member of the Parents Advisory Council said, "I feel that many parents believe that the bilingual program is simply a catchall for many disciplinary problems."[6] Lopez also reported that teachers were discouraging parents from placing their children into the program because according to the

teachers the program was detrimental to the children.[7] Lopez also stated that some of the parents refuse to place their children into the bilingual program because it had been labeled a program for children who cannot succeed.[8]

Dr. Joseph Bechard, Assistant Superintendent of the Waukesha school district, told the Committee that they have a kindergarten screening program where they test and interview students to determine whether they speak English only as a second language. Once the student is identified as needing bilingual education, he or she is referred to the bilingual department so that a social worker can contact the parents. Then the parents decide whether or not to enroll the child.[9] In the high school, a student who averages a grade below a "C" will be directed to the bilingual program for special instruction. According to Gamino, about 20 percent of the parents who are contacted will not sign the consent form so that their child can be placed in the bilingual program.[10] Although there is a form for exiting a student out of the bilingual program the district has not used it yet.[11]

In general, the Parent Advisory Council (PAC) is alleged to be weak and ineffective.[12] The parent officer of the council was told that the district would not release the phone numbers and addresses of parents who had children in the programs so that the council officers could call them and promote attendance. Both Jane Ybarra and Aline Lopez told the

Committee that the Parents Advisory Council was inactive because it was poorly organized and because the district did not cooperate with them in their efforts. Pedro Rodriquez, from LA RAZA UNIDA told the committee that the school district was not making a good effort to involve parents.[13] However, Gamino reported that the PAC met on a monthly basis and that a newsletter was published three times a year. This letter is in addition to a letter that goes out every month from the School Administration. Once a year the bilingual program invites all the parents to a workshop.[14]

The only teacher to testify from the Waukesha school district indicated to the Committee that bilingual education in Waukesha was needed, especially for those children that had just arrived from Mexico or Puerto Rico.[15] The only problem she saw was the lack of services to bilingual children who needed special education. The administrators who testified concurred but said that service to those children was lacking because of the unavailability of bilingual qualified personnel.[16]

Milwaukee

There is a total of 90,952 students enrolled in the Milwaukee public schools. Of this total, 5,309 are reported to be of Hispanic background. Of this total, 1,762 or 33 percent are in bilingual programs.[17] The effort to establish bilingual programs began in 1969 when the U.S. Office of Education funded

Milwaukee with a $10,000 grant for the developmnt of a project and that same year received $45,258 total grant. The initial bilingual program included one Elementary, and two Secondary schools.[18] However, it was not until 1974 that a comprehensive bilingual program was established to meet the needs of limited English speaking children.[19] Today the Milwaukee public school system has allocated $2,661,873 to pay staff salaries for bilingual teachers, aides, and support staff. An additional $55,449 has been allocated for the purchase of educational materials and supplies.[20]

Fourteen schools have a bilingual program, including 10 elementary, and four secondary schools. Nine of the ten elementary and middle schools have self-contained classroom programs and two have the services of a resource teacher. In general, students are tested to determine whether they should be reassigned out of the bilingual programs with the concurrence of the teacher. Overall, administration of the bilingual program is presently (May, 1981) under the direction of Fermin Burgos, then, (Acting Director in absence by leave of Olga Eccher) who in 1981 was assisted by two teacher supervisors.[21]

According to Burgos, the pupil eligibility identification process begins with the use of a referral form which is completed at the school where the child enters for the first time. A determination is made whether the child needs to

be tested for English proficiency, except for the children who are clearly dominant in a language other than English. All other students receive a battery of tests to determine their reading, writing, listening and speaking skills in English. If the child is assessed to be in the lower 20th percentile then he/she is categorized as Limited in English Proficiency.[22] However, according to Graciela De La Cruz, a teacher with the bilingual program, some principals do not advise the parents about the bilingual program when they come to their school. This is partly due to the fact that some administrators outwardly say they favor the bilingual program but in the processes of testing students and informing parents they are clearly not supportive.[23]

In the area of achievement testing, the district's policy is that all children in the school system should be tested. According to De La Cruz, this directive which came from the central office gave no instructions as to how this test should be administered to children in the bilingual program. The directive instructed teachers to test children at the kindergarten, 1st, 3rd, and 5th grade levels. A problem arises from the fact that the directive does not take into account that children who have just entered the bilingual program or the child who is not English proficient may do badly. Under the previous policy, if a child was Spanish dominant, the test was not administered. In general, there is

little coordination in the administration of tests that would have potentially harmful results for the bilingual children in the district.[24] When De La Cruz was asked by the Committee what she recommended to resolve the problem of achievement testing, she replied: "No Spanish dominant child should be tested unless he is very proficient in the second language. How proficient would depend on the teachers."[25] However, it was reported to the committee that city-wide testing does not include Spanish dominant children.[26]

Testing for reassignment of students from bilingual programs by the district is dependent on how soon it can be determined that the student can perform ordinary classroom work in English. This is done by administering a post-test and also with the recommendation of the bilingual teachers.[27]

Parents in the Milwaukee school district have been very active through the City-Wide Bilingual Bicultural Advisory Committee (CWBBAC) since 1974. The Hispanic community of Milwaukee has been involved in negotiations with the Milwaukee school board since 1972. One result is a policy statement from the administration recognizing CWBBAC as the representative organization of the parents for bilingual education. CWBBAC has been successful in working with the board to implement bilingual programs. The following were approved by the Milwaukee school board:

(1) The support for a Developmental (Maintenance) Bilingual Bicultural Education Program,

(2) The establishment and recognition of the City-Wide Bilingual Bicultural Advisory Committee (CWBBAC),

(3) The establishment of bilingual parent committees at the local school level,

(4) The review of issues related to the bilingual bicultural curriculum,

(5) Policies on matters related to bilingual personnel (reassignment of teachers/recruitment/ interviewing/hiring/staff training), and

(6) Bilingual monetary issues (Board of School Directors, Milwaukee, Wisconsin, May 7, 1974, Proceedings, pp. 855-863, 918-923). [28]

In 1978 HEW's Office for Civil Rights (OCR) found the Milwaukee Public Schools (MPS) out of compliance with both Title VII of the 1964 Civil Rights Act and the regulations that came out of the case of Lau v. Nichols. A plan for Lau compliance was turned in to OCR in 1979. Since then the CWBBAC has met with the school administration to discuss the

problems and needs of the exceptional education students (for the most part students who have a learning disability) and the selection of personnel to coordinate the Lau compliance plan.

Mr. Cristobal S. Berry-Caban, Secretary of the CWBBAC, presented the Committee with the following problem areas, which in turn were presented to the MPS Board:

(1) that children coming out of the bilingual programs were not reading or speaking in Spanish or English because of the quality of education they were receiving;

(2) that the new Lau coordinator was not communicating effectively with parents in the CWBBAC;

(3) that the city administration was deliberately watering down the bilingual program and, that this was a violation of the 1976 "Statement of Assurances" adopted by the MPS Board;

(4) no operational plan regarding the treatment of bilingual professionals has been developed and that the role of the CWBBAC in the selection of personnel for the bilingual program and the exceptional education program has not been carried out;

(5) support for the Parent Bilingual Coordinator has been poor;

(6) there have been gross violations of handicapped children's rights and that there have been no attempts to resolve them; and

(7) communications to parents regarding bilingual programs are still sent out occasionally in English, in particular, to parents who have exceptional education children.[29]

Ms. Aurora Wier, Director of the Community Enrichment Center, told the Committee that CWBBAC is being treated as a rubber stamp and nothing that has been recommended has been implemented in several years.[30] The Lau coordinator is a good example of staff that was not supported by the CWBBAC because the person allegedly does not speak Spanish. Also, there are no Hispanic principals in the system, not even in the schools with bilingual programs.[31] However, according to the Milwaukee Public School Administration the Lau coordinator speaks fluent Spanish and there is a Hispanic principal working for the district.[32] The problem most highlighted by the parents was the need for bilingual programs for the exceptional and emotionally handicapped children.[33] Administrators admitted to the Committee that there is no program available for these

children. Jack Marcussen, an administrator in the MPS, said Milwaukee has one teacher who is bilingual to help the exceptional education bilingual students, however "we still have a long way to go" to provide adequate services.[34] Amparo Jimenez, Vice President of the CWBBAC, told the Committee there were 500 Hispanic students who needed bilingual exceptional education services and that the administration provided only two teachers for the program. Parents have been asking for special services in this area for the last five years.[35]

Racine

There is a total of 23,162 students enrolled in the Unified Racine School District. Of this total 1,713 (7.4%) are Hispanic. Approximately 800 students were identified by the district as needing bilingual education and of these 414 are actually receiving the services.[36]

In 1979, the Racine Unified District received funding from HEW under Title VII of the Bilingual Education Act. Federal funding was granted for three years. Each year the district has applied and received reimbursment from the state for its bilingual program.

The program has a total of 34 staff members, including 18 teachers, 10 aides, 2 coordinators, 1 community liaison, 2 secretaries and 1 director.[37]

As previously indicated, in 1979 the Racine Unified District was found in violation of Title VI of the 1964 Civil Rights Act by OCR. As a result, a compliance plan was developed and approved by OCR.

Most of the parents who made statements before the Committee were dissatisfied with the bilingual program in Racine. The concerns ranged from not reaching enough children to only being a tutorial rather than a comprehensive bilingual program.

Ms. Josie Barrientes said: "...I am all for bilingual education, but I am unhappy with the bilingual program because its not meeting the needs of our children."[38] Ms. Barrientes is a parent and a teacher with the Racine schools. She reported to the Committee that counselors in the system were directing Hispanic students out of the college track into vocational education. "Hispanic children that are in the bilingual programs are being misinformed or misled by counselors," added Barrientes.[39]

Most of the disagreements between the Racine school district and parents stem from differences in philosophical views on the implementation of bilingual education. For example, Ms. Florencia Garza, a teacher with the Milwaukee Bilingual Program who lives and has children in the Racine school district, said that from her experience Racine implements a tutorial program rather than a bilingual program.[40]

According to Ezequiel Vargas, Director of Bilingual Programs in Racine, the bilingual program is more than a tutorial one. He said that the K-3 classroom instruction is conducted in a self-contained room while the 4th, 5th and 6th grade programs are basically pull-out programs operated in two schools. In the junior high and high school there are instances where the teacher may give individualized instruction which may be referred to as tutorial, he added.[41]

"Some parents are not aware of what is a true bilingual program," added Ms. Garza.[42] This is partly due to the fact that parent meetings are geared primarily for administrators. Parents have to constantly ask for translation of the conversation.[43] Ms. Barrientes reported to the Committee that some of the parents have approached her to translate letters and lunch forms because they cannot understand English.[44]

Father Glen Glessner, Pastor of Cristo Rey Church--the first Hispanic church in the Archdiocese of Milwaukee, and an activist with the Hispanic community in Racine, said: "I'm concerned that bilingual education is not achieving its ends, especially in the different schools. Its [has] become evident that there is no common bond of education....There is no commonality between the system of education and bilingualism here in Racine."[45] He also told the Committee that teachers and aides drop out of the program because of lack of support.[46]

There is also great concern that children who need to be in a bilingual program are not in the program because of transportation problems. Some parents have been forced to take their children out because they live too far from the school that offers the program and they live too close for the district to provide transportation.[47] Most of the children involved were in elementary grades and parents would not allow the children to walk the distance for safety reasons. Apparently the parents tried to get some relief on this issue and were not allowed to be heard, or were treated badly. Marvin J. Happel, former Chairperson of the Student Personnel Transportation Committee wrote in his resignation letter:

> The reason for this resignation is to protest the manner in which parents and others are dealt with when they come before the committee ....In no case should people have to endure the gauntlet of disrespect that has been forthcoming from committee members and non-committee members alike....This arrogance towards parents was again clear in the past week in the decision of two committee members not to participate in any special meeting with Hispanic parents.[48]

For those children who cannot attend a bilingual program because of transportation problems, the district provides English as a Second Language instruction. According to C. Richard Nelson, Superintendent of the Racine schools, all elementary schools and junior highs provide remedial reading programs.

Some concern was expressed that children who had special education problems were not being served. One reason for the lack of service is that the district did not have a qualified psychologist to test the children. Several parents alluded to the fact that there are many children who were tested improperly and were pulled out of the bilingual program because they were found to be mentally retarded.[49] When Nelson was asked about bilingual services for children who had been evaluated educationally mentally handicapped, he said: "Well I think we do the best we can, by ensuring that a kid is placed in a school that has both bilingual and EMR....But we certainly need more bilingual staff members in exceptional ed."[50]

Kenosha

Reports to the Wisconsin State Department of Public Instruction indicate that the Kenosha Unified School District had a total of 17,466 students enrolled for the 1980-81 school year. Of that total 1,007 or 5.8 percent were Hispanic and 169 or 17 percent were classified as Limited English Speaking and, therefore, reported in the bilingual program.[51]

The total budget allocation for bilingual education in Kenosha was $174,729 of which 70 percent or $122,318 was reimbursed by the state. Most of the budget expenditures were

disbursed to pay for eight bilingual teachers, six aides and one consultant (director) working in the program. Only two of the eight bilingual teachers are Hispanic.[52]

The Kenosha school district's bilingual program is being offered at two centers: Bain elementary school is a self-contained classroom, including kindergarten to grade two, and Frank elementary school also in a self-contained classroom for grades three through six. Both schools have the classes only for half of the day. At the junior high and high school level, students are pulled out of the classroom when they need help in social studies, math and reading.[53] Students attending both centers are provided with bus transportation to and from their homes.[54]

The Kenosha school district is the only district identified by parents who live there as an allegedly uncooperative district in the implementation of bilingual education program. This was pointed out in a 1979 letter written by a number of parents from the Kenosha community to Alanson Sumner, of the Office for Civil Rights (OCR-HEW) in Chicago:

> During the last few years we the Hispanic parents in Kenosha have repeatedly approached the school district requesting compliance with the Lau v. Nichols regulations and with the Wisconsin bilingual law.[55]

The letter notes that attempts to communicate the problem with the board and the superintendent have been ignored. Most importantly, the parents allege that they had been treated harshly by principals and teachers when visiting the schools.[56]

The parents also pointed out that the very small program implemented by the Kenosha district was inadequate because it placed children from four grade levels in one classroom, making bilingual instruction almost impossible.[57] This concern was substantiated by state officials when they told the Committee that the Kenosha district was giving them problems in implementing state bilingual education guidelines. They felt that a classroom with kindergarten through fourth grade children was too much for one teacher to handle as was currently the situation.[58] The Kenosha school district was found out of compliance with the Lau regulations by OCR and was directed to develop a voluntary compliance plan.[59] An adequate compliance plan was approved by OCR in August 1981.[60]

According to Josephine Chairez, a bilingual teacher with the Kenosha bilingual program, the administration and teachers support the bilingual program only when they could transfer a problem child into the program. In reality, most teachers and principals do not recognize the bilingual program as a viable educational tool.[61] When Ms. Chairez was asked if

there was a bilingual parents council in her school she responded "No".[62] She wasn't sure if there was one district wide.[63]

Beatrice Rodriguez, a parent from Kenosha, told the Committee that her child was placed in the bilingual program because he had a speech problem. She said that what her child needed was speech therapy.[64] Angelita Sandoval wanted her child to be in the bilingual program but was told that her child was assessed not to need it.[65]

Ideally, bilingual programs are supposed to prevent and/or deter the need for retaining a child who is Spanish or any child who speaks a language other than English in the same grade. Bilingual programs should facilitate the child's transition into English speaking classes, and prevent the need to retain the child in the same grade. Yet retention in the same grade along with high dropout rates among Hispanics were identified as critical problems.[66] It was pointed out to the Committee that the Kenosha Unified School District administers the Stanford Standardized English test to dominant Spanish speaking children. As a result, many Hispanic children produce low test scores and are retained in the same grade for the next year.[67] Tne ultimate decision to retain a child in the bilingual program is the principal's. However, the bilingual teacher does influence the decision. Ms. Chairez was asked if the district had a policy to determine when a child should be

mainstreamed into the regular program and she responded that there was none to her knowledge.[68] According to Rosaria Jermanotta, the principal of Frank elementary school, the district has exit criteria outlined in its Lau compliance plan and she was surprised that Ms. Chairez did not know them.[69] (It is important to note that Ms. Jermanotta was representing Dr. John Hosmaneck, Superintendent of the Kenosha schools. Dr. Hosmaneck was invited personally by Herbert Hill, Chairperson of the Wisconsin Advisory Committee to appear at the fact-finding meetings but did not appear, as explained by Ms. Jermanotta, who said "On behalf of an explanation for Dr. Hosmaneck, I think he thought this thing, this whole dealing, would be in Spanish, and he does not speak Spanish....in his defense; please".[70] However, he did send Ms. Jermanotta who spoke no Spanish.)[71] Ms. Jermanotta said none of the children attending her school were given the Stanford Standardized Test. However, she indicated she could only relate to her own school and not the others.[72]

One final point made by Ms. Jermanotta is that there are no professional Hispanic psychologists to evaluate bilingual children who need special education. No special services are being provided to limited English-speaking children.[73]

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[1]Milwaukee Transcript, pp. 74-75.
[2]Milwaukee Transcript, pp. 56-57.
[3]Milwaukee Transcript, p. 88.
[4]Milwaukee Transcript, p. 79.
[5]Ibid.
[6]Milwaukee Transcript, p. 149.
[7]Milwaukee Transcript, p. 151.
[8]Milwaukee Transcript, p. 153.
[9]Milwaukee Transcript, p. 64.
[10]Milwaukee Transcript, p. 67.
[11]Milwaukee Transcript, p. 75.
[12]Milwaukee Transcript, 133, 143.
[13]Milwaukee Transcript p. 217
[14]Milwaukee Transcript, p 82.
[15]Milwaukee Transcript, p. 92
[16]Milwaukee Transcript, p. 67.
[17]Jack I. Marcussen, Administrative Coordinator for Categorically Aid Programs, letter to Herbert Hill, Chairman of Wisconsin Advisory Committee, May 6, 1981, with attachment "Bilingual Bicultural Education in the Milwaukee Public Schools" (hereafter cited as Marcussen Information).
[18]Ibid.
[19]Milwaukee Transcript, p. 160.
[20]Milwaukee Transcript, p. 166.
[21]Milwaukee Transcript, pp. 160-167.
[22]Marcussen Information.
[23]Milwaukee Transcript, p. 263.
[24]Milwaukee Transcript, pp. 266-268.
[25]Milwaukee Transcript, p. 273.
[26]Jack I. Marcussen, Administrative Coordinator of Categorically Aided Programs, letter to Clark G. Roberts, Regional Director, March 1, 1982. (hereafter cited Marcussen letter)
[27]Marcussen Information.
[28]Cristobal S. Berry-Caban data supplied to the Wisconsin Advisory Committee to the U.S. Commission on Civil Rights at its fact-finding meeting, Milwaukee, Wisconsin, May 15, 1981, Exhibit 4 (hereafter cited as Exhibit 4).
[29]Ibid.
[30]Milwaukee Transcript, p. 315.
[31]Ibid.
[32]Marcussen Letter.
[33]Milwaukee Transcript, p. 317.
[34]Milwaukee Transcript, p. 239.
[35]Amparo Jimenez, statement presented to the Wisconsin Advisory Committee to the U.S. Commission on Civil Rights at

its fact-finding meeting, Milwaukee, Wisconsin, May 15, 1981, Exhibit 5.

[36]C. Richard Nelson, Superintendent of Racine Unified School District, data provided to Herbert Hill, Chairpeson of the Wisconsin Advisory Committee to the U.S. Commission on Civil Rights, April 6, 1981 (hereafter cited as Nelson Information).

[37]Ibid.

[38]Josie Barrientes, Parent/Teacher, statement made to the Wisconsin Advisory Commitee to the U.S. Commission on Civil Rights, at its fact-finding meeting, Racine, Wisconsin, May 16, 1981 (hereafter cited as Racine Transcript), p. 386.

[39]Racine Transcript, p. 390.

[40]Racine Transcript, p. 427.

[41]Racine Transcript, pp. 573-574.

[42]Racine Transcript, p. 434.

[43]Racine Transcript, p. 437.

[44]Racine Transcript, p. 446.

[45]Racine Transcript, pp. 450-51.

[46]Racine Transcript, p. 452.

[47]Racine Transcript, pp. 399-400.

[48]David Granadas, President of League of United Latin American Citizen Council #289, letter to Isidro Lucas, Deputy Regional Director, Midwestern Regional Office, U.S. Commission on Civil Rights, May 19, 1981, attachment, copy of letter from Marvin J. Hoppel, Chair of Student Transportation Committee, to Marilyn Langdon, President of Racine Unified School Board, Racine, Wisconsin.

[49]Racine Transcript.

[50]Racine Transcript, p. 588.

[51]Dr. John J. Hosmaneck, Superintndent of Kenosha Unified School District, data provided to Herbert Hill, Chairperson of the Wisconsin Advisory Committee to the U.S. Commission on Civil Rights, April 16, 1981 (hereafter cited as Hosmaneck Information).

[52]Ibid.

[53]Ibid.

[54]Ibid.

[55]Constance L. Santiago, Director, Hispanic American Community Center, letter to Carmelo Melendez, Equal Opportunity Specialist, Midwestern Regional Office, U.S. Commission on Civil Rights, March 28, 1981, attachment, letter from Santiago and several Kenosha parents, Sept. 5, 1979, to Alanson Sumner, HEW, Office for Civil Rights.

[56]Ibid.

[57]Ibid.

[58]Elena Chavez-Mueller, Supervisor, Bilingual Bicultural Education, interview in Madison, Wisconsin, July 3, 1980.

[59]Kenneth A. Mines, Director, Office For Civil Rights, Region V, letter to Dr. John J. Hosmaneck May 9, 1980

[60]Telephone Interview with Tom Hibino, Supervisor, Equal

Opportunity Specialist, Office For Civil Rights, October, 1981.
[61]Racine Transcript, p. 644.
[62]Racine Transcript p. 653
[63]Racine Transcript p. 653
[64]Racine Transcript, p. 612.
[65]Racine Transcript, p. 607.
[66]U.S. Commission on Civil Rights, A Better Chance to Learn: Bilingual/Bicultural Education, May 1975, pp. 17-18-19.
[67]Racine Transcript. p. 644.
[68]Racine Transcript, p. 649.
[69]Racine Transcript, p. 688.
[70]Racine Transcript p. 665
[71]Racine Transcript, p. 665.
[72]Racine Transcript, pp. 686-687.
[73]Racine Transcript, pp. 692-693.

Chapter 5

FINDINGS AND RECOMMENDATIONS

The present statement assessing the extent to which educational services for non-English speaking children are being provided in the state of Wisconsin was undertaken by the Wisconsin Advisory Committee after receiving a number of complaints from citizens residing in several school districts of the state. Many of the complaints centered around the issue of lack of parental involvement in bilingual programs and the allegation that some of the limited-English students were being denied the right to bilingual education in some of the districts. In addition, several members of the Wisconsin Committee were concerned that differences between state and Federal laws resulted in some eligible students being denied bilingual education services.

In response to these concerns, the Wisconsin Advisory Committee gathered data from the following school districts: Milwaukee, Racine, Kenosha, Sheboygan and Waukesha. Staff and Committee members met with state and Federal officials. The Committee also invited administrators, teachers, parents and community leaders to participate in two fact-finding meetings held in Milwaukee and Racine.

The Office for Civil Rights (OCR) of the U.S. Department of Education had conducted Lau Compliance Reviews on

the same school districts and found four of the five districts in non-compliance (Waukesha was the exception). The Committee obtained the OCR letters notifying districts of non-compliance and the districts' compliance plans for the purpose of monitoring the districts' progress in the implementation of those plans.

Finding One

Some limited-English speaking students in Wisconsin are not receiving bilingual education services because of differences between state and Federal requirements pertaining to parental consent. Federal law does not require prior parental consent but requires school districts to inform parents when a child is placed in a bilingual program. Parents then have the right to withdraw their children from the program. State law, however, requires parental consent prior to placing a child in a bilingual program. Because parents are not always adequately informed about bilingual education programs, students are often not enrolled in such programs, to their detriment.

Recommendation One

Tne Wisconsin state legislature should amend state bilingual education law in accordance with Federal requirements to assure that parents will have the right to withdraw their children from bilingual programs but need not give prior consent for the district to place the children in the program.

Finding Two

Whereas Federal law requires school districts receiving Title VII (ESEA) funds to provide bilingual services in the school students normally attend, state law permits districts to combine pupils from separate attendance areas in order to generate the minimum number of students necessary in a classroom to qualify for state reimbursement. However, the state does not require such pupil reassignments and does not provide for reimbursement of transportation expenses when children are transported less than one mile from the school they would normally attend.

Recommendation Two

The Wisconsin state legislature should amend state bilingual education law to provide funds for transportation expenses for those districts reassigning students for bilingual education purposes even to schools located within one mile of schools they would otherwise attend.

Finding Three

The Wisconsin Department of Public Instruction does not adequately monitor school districts to assure that bilingual education programs are properly implemented, all eligible students have been identified, and all districts are in compliance with state requirements. The state has not hired

sufficient staff in its Bilingual/Bicultural Education Office to conduct on-site reviews and monitor programs despite the fact that between 1978 and 1980, $500,000 in state funds appropriated for bilingual programs were returned to the state treasury.

Recommendation Three:

The Wisconsin Department of Public Instruction should utilize funds already appropriated by the state for bilingual programs to hire sufficient staff that will enable the Department to conduct on-site reviews and generally monitor implementation of bilingual education programs.

Finding Four

Many parents have little understanding of bilingual education, particularly in terms of curriculum, testing, and procedures for entry into and exit from the programs.

Recommendation Four

School districts should disseminate information on bilingual programs through bilingual workshops with parents, cultural activities in the schools, community meetings, the media, as well as Parent Advisory Councils.

Finding Five

Several parents have complained that school boards have been uncooperative in the establishment of Parent Advisory

Councils (PAC's). One complaint is that some districts created one district-wide PAC instead of a PAC for each school offering bilingual programs. Another complaint is that meetings are often conducted in English with no effort made to translate the proceedings.

Recommendation Five

School districts should actively seek to organize PAC's in each school offering bilingual programs and should take necessary steps, including translation of PAC proceedings, to assure that all appropriate information is shared with parents.

Finding Six

Special education services for bilingual students, are inadequate as shown by the limited number of bilingual teachers, and psychologists.

Recommendation Six

Districts which have a substantial number of limited-English speaking children should hire bilingual psychologist, or other professionals, to assure proper administration of tests so that in the administration of tests students are not penalized due to language and cultural differences. These districts should also hire adequate numbers of teachers and aides to provide appropriate services for

students identified as needing special education classes.

Finding Seven

Most teachers employed in bilingual programs are paid with special state or Federal funds. They were hired, in recent years, specifically for those programs. Therefore, any cutbacks in bilingual education programs would result in bilingual teachers being among the first to be released.

Recommendation Seven

Local school districts should assume the costs for bilingual teachers and administrators so that they become part of the permanent staff (with all rights, including tenure) rather than remain as supplemental personnel.

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